IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.972 OF 2005
IN
SUIT NO.2875 OF 2004

Ajay Sohanlal Jhuria ...Plaintiff

vs.

State of Maharashtra & others. ...Defendants

AND

NOTICE OF MOTION NO.978 OF 2005

IN

SUIT NO.2875 OF 2004

Ajay Sohanlal Jhuria ...Plaintiff

vs.

State of Maharashtra & others. ...Defendants

and

The Commissioner of Police & another. ...Respondents.

Ms.T.G.Vora i/b. B.K.& Girdharilal, for Plaintiff.

Mr.P.G.Lad, AGP, for Defendant nos.1 & 8.

Mr.Pimpale, for Respondent no.2.

Mr.B.B.Saraf i/b. M/s.Kishore Thakordas & Co. for Defendant no.11.

CORAM: D.K.DESHMUKH,J.

DATED: 12th October,2006

P.C.:-

1. Both these notices of motion are taken out by the plaintiff seeking

directions against defendant nos 1 to 8 who are all statutory authorities, basically directing them to act in accordance with law. The statutory authorities are under an obligation to act in accordance with law therefore, it is not necessary for any Civil Court to issue any direction to that effect. The second aspect of the matter is that if the directions that are sought by the plaintiff against the statutory authorities are granted, they are adversely affect the defendant no.11 Trust. The learned Counsel appearing for plaintiff himself admits that defendant no.11 is a public trust and the trustees of that public trust who by law are required to be joined as defendants, have not been joined as parties. Obviously, therefore, the plaintiff is not entitled to any interim reliefs which will have adverse effect on the defendant no.11.

2. It is further to be seen that it is a common ground that admittedly, presently the school is being run by defendant no.11 in the premises for last 30 years and interim order will have adverse effect on

running of school where children are, admittedly, admitted. In my opinion, granting of any order in favour of the plaintiff will be against the public interest. It is further to be seen here that admittedly, the plaintiff has already moved Small Causes Court for decree of possession against defendant no.11, and therefore, so far as possessory aspect of the matter is concerned, no interim order can be made by this Court, in view of pendency of the suit in Small Causes Court. For all these

reasons, the notices of motion are disposed of. The plaintiff is directed to pay costs of this notices of motion to all the defendants as incurred by them.